

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
KYLE HARTRY,

Plaintiff,

-against-

**08 CV 3725 (ADS)(ETB)**

**DECLARATION OF  
JON L. NORINSBERG, ESQ.**

COUNTY OF SUFFOLK, SGT. "JOHN" LUNQUIST,  
Individually and in his Official Capacity, DET. VINCE  
DALY, Individually and in his Official Capacity and C.O.  
"JOHN DOE" and C.O. "JANE DOE"#1-10, Individually and  
in their Official Capacities, (the name John Doe being  
fictitious, as the true names are presently unknown),

Defendants.  
-----X

**JON L. NORINSBERG**, declares pursuant to 28 U.S.C. §1746, under penalty of perjury,  
that the following is true and correct:

1. I am the attorney of record for plaintiff Kyle Hartry. As such, I am familiar with the facts stated below and submit this Declaration to place on the record the relevant documents in support of plaintiff's opposition to defendants' motion for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure.

2. Attached as **Exhibit A** is a copy of the relevant portions of plaintiff Kyle Hartry's deposition transcript.

3. Attached as **Exhibit B** is a copy of the relevant portions of Sgt. Steven Lunquist's deposition transcript.

4. Attached as **Exhibit C** is a copy of the Interview of Sgt. Steven Lunquist by the Long Island Press.

5. Attached as **Exhibit D** is a copy of the Substitute Jail Order authorizing plaintiff's transfer to the Nassau County Corrections Facility.

6. Attached as **Exhibit E** is a copy of the form prepared by Investigator McCarrick dated September 19, 2007, placing plaintiff into protective custody.

7. Attached as **Exhibit F** is a copy of the Suffolk County Correctional Facility Housing Notification.

8. Attached as **Exhibit G** is a copy of the relevant portions of P.O. Victoria McCarrick's deposition transcript.

8. Attached as **Exhibit H** is the photos of plaintiff following the attack.

9. Attached as **Exhibit I** is a copy of the medical record authorizing plaintiff's transport to Peconic Bay Hospital.

Dated: New York, New York  
September 29, 2010

Respectfully submitted,



Jon L. Norinsberg (JN 2133)  
Attorney for Plaintiff  
225 Broadway Suite 2700  
New York, N.Y. 10007  
(212) 791-5396

**EXHIBIT A**

ORIGINAL

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
KYLE HARTRY,

Plaintiff,

v.

CASE NUMBER CV 08 3725

COUNTY OF SUFFOLK,  
SGT. "JOHN" LUNQUIS, Individually,  
and in his Official Capacity;  
DET. VINCE DALY, Individually,  
and in his Official Capacity;  
and C.O. "JOHN DOE" and  
C.O. "JANE DOE" #1-10, Individually,  
and in their Official Capacities  
(the name John Doe being fictitious,  
As the true names are presently unknown),

Defendants.  
-----X

DEPOSITION of KYLE HARTRY

MAY 6, 2010

11:30 A.M.

K. HARTRY

1

2

A Between when?

3

Q The night of the stabbing --

4

A April --

5

Q -- and April 2006, did you speak to  
the police at all about what you did  
see during that period of time? From  
the night of the stabbing you talked  
to the cops, you said you hadn't seen  
anything. After that night up until  
April 2006, did you ever speak to them  
again about the stabbing?

6

7

8

9

10

11

12

13

MR. NORINSBERG: Note

14

my objection. You can

15

answer.

16

A Yes.

17

Q When was that?

18

A A few -- couple of years later.

19

Q If you know, were you incarcerated at  
the time?

20

21

A Yes.

22

Q Do you remember where? Were you in  
local or Suffolk County, or were you  
upstate?

23

24

25

A I was -- I was in a precinct.

K. HARTRY

1

2

information relayed to the detectives?

3

Why did you do that?

4

A I wanted my time cut.

5

Q When you say your "time," you mean in  
relation to your most recent arrest of  
the assault and weapons case?

6

7

8

A Yes.

9

10

Q When you use the phrase, put that in  
motion -- just, I know that may not be  
appropriate.

11

12

When you spoke to your attorney --

13

actually was brought to the

14

detectives, had you been charged with

15

the drug charge yet?

16

A Yes.

17

Q Okay. Okay. So you had the assault  
charge and the drug charge pending  
when you made this effort to speak  
with the detectives?

18

19

20

21

A Yes.

22

Q All right. And you did that because  
you wanted to get favorable treatment  
in relation to those cases?

23

24

25

A Yes.

1

K. HARTRY

2

you know, then it would be

3

repercussions behind my actions.

4

Q Do you remember the exact words he  
used?

5

6

A No.

7

Q Okay. Did there come a time after  
that at that point that you received  
any kind of actual threats from  
anybody?

8

9

10

11

A Yes.

12

Q In relation to that, when did the  
threats occur?

13

14

A Later on that day.

15

Q And what were the nature of the  
threats?

16

17

A The guy told me, "I'm waiting for the  
statements. When the statements come  
out, you won't be able to live in this  
jail," and it's like that.

18

19

20

21

Q Was that a different guy than the  
first guy?

22

23

A A different guy.

24

Q Do you know who that person was?

25

A Yes.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

K. HARTRY

A I can't remember exactly who I talked to that day. That day I don't remember.

Q After you explained to them what had occurred, you said they moved you?

A Yes.

Q And where did they move you to?

A To the pod which is on the other side of Suffolk County Jail.

Q Did the security person say anything to you about moving you, or did they just move you?

A No. She asked me -- like she said, "Well, you want to move?" I'm like, "Yeah."

Q You said "she." It was a female?

A Yes. I think Ms. M.

Q All right. And were you moved to the pods?

A Yes.

Q And what happened? Actually, I should ask you, from the time that you spoke to the security personnel about what had happened and they said that they



1

K. HARTRY

2

were moving you, how much time applied

3

before you actually moved? Was it

4

several days? Was it that day? Do

5

you remember?

6

A That same day. That same night.

7

Q What, if anything, happened when you

8

got moved to the pod?

9

A I was over there in the pod. The next

10

morning we went to yard, to the rec

11

pen. We went there with some other

12

inmates from my tier. They were in a

13

different yard right across from the

14

yard that I was in, and, you know, the

15

word spread like wildfire. "Hey, he's

16

a snitch."

17

Q You say other inmates from the tier.

18

"Tier," you mean the one from the one

19

you got moved?

20

A Yes. I was in the yard. On the other

21

side of the yard -- we was in one

22

fenced-in yard, they was in the other

23

fenced-in yard, and were telling the

24

other inmates, "He's snitching."

25

Q You said "other inmates." Were they

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

K. HARTRY

"Well, we're going to have to sign him  
into PC."

Q Okay. And do you know what that  
meant, sign into PC?

A Yes.

Q What does that mean?

A It means you sign a piece of a paper  
saying I want to be in protective  
custody.

Q Do you know why you had to sign a  
piece of paper to be in protective  
custody?

A It's voluntarily. I mean, it's not  
like it's involuntary.

Q When you signed that piece of paper,  
was there any type of instructions on  
it indicating what protective custody  
would mean?

A I don't understand that.

Q Did you actually sign into protective  
custody?

A Yes.

Q You signed a piece of paper?

A Yes.

110

1

K. HARTRY

2

Q After you did that, did you remain in  
the pods?

3

4

A No.

5

Q You were moved to someplace else?

6

A Yes.

7

Q Do you know where it was that you were  
moved to?

8

9

A Protective custody. I think that's  
the second or third floor. I can't  
remember exactly.

10

11

12

Q But you actually moved from the area  
with the pods. You were no longer  
housed there. You were housed in a  
different area?

13

14

15

16

A Right.

17

Q And it's your belief that that was in  
relation to you having signed into  
protective custody?

18

19

20

A Yes.

21

Q And that area of the jail, do you know  
where that was?

22

23

A Yes.

24

Q Do you know what tier it was, floor,  
whatever?

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

K. HARTRY

You were in the tier, you were sent to the pod, then you were sent to the area you just described. How long were you in the area of the pod?

A In the pod, one day.

Q And then you got sent to the area --  
I'm sorry.

A Like one night.

Q Okay. And then you got put into this area, this area of the jail where you were in the day area?

A Yes.

Q And what, if anything, happened while you were there?

A I was sleeping in my bunk on a day area bed, and this inmate that was -- he was in one of the cells, was throwing wet tissue at me.

Q Okay.

A And he was threatening me. He was threatening me when I come out my cell. You know, "I'm going to do this to you." He was telling this other kid about a weapon or something. He

114

1

K. HARTRY

2

showed it to me, showed me some type

3

of weapon.

4

Q When you say "he was threatening me,"

5

he said to come out of your cell?

6

A I don't know exactly what he said, but

7

he was saying -- he was saying that --

8

he said, "I heard about you. I know

9

what's good with you," meaning -- I

10

know what -- "I know that you

11

snitching on this woman," or whatever.

12

And he was like, "When I come out of

13

my cell, I'm going to get at you."

14

Q Okay. So he was in his cell, but you

15

were in the day area?

16

A Yes.

17

Q Were you in a bunk or something like

18

that?

19

A Yes.

20

Q Was your bunk close to where his cell

21

was?

22

A Yes.

23

Q And just for clarification, the day

24

area is an area that's in front of a

25

series of cells? Is that fair to say?

1

K. HARTRY

2

A No.

3

Q Okay. You said this fellow that

4

threatened you in some fashion

5

mentioned something about a weapon?

6

A Yes.

7

Q Tell me about that.

8

A He kept showing me some type of

9

weapon.

10

Q Do you recall what that was?

11

A I believe it was a sharpened spoon.

12

Q When you say "sharpened spoon," do you

13

remember, was it like a metal spoon or

14

a plastic spoon?

15

A Plastic spoon.

16

Q And he showed it to you in some way?

17

A Yes.

18

Q When he showed it to you, did you say

19

anything?

20

A He was like, "I heard about you. When

21

I come out, I'm going to get at you."

22

I don't remember his exact words.

23

Q Some threat in some way?

24

A Yes.

25

Q Did you say anything to him?

1

K. HARTRY

2

corrections officer about that. You

3

wanted to say more about that?

4

A

Right. I wrote it on the piece of

5

paper, "This guy has a shank," and I

6

threw it out on the gallery where the

7

officer is. And the officer was like,

8

"I just got in." It was early in the

9

morning, the shift just changed.

10

Q

Let me stop you. Do you remember

11

about what time it was?

12

A

No. The shift just changed.

13

Q

I don't know. I'm just asking if you

14

know. It's okay if you don't.

15

A

Maybe seven, maybe, I think.

16

Q

You just recall it being early in the

17

morning?

18

A

Around that time.

19

Q

All right. Tell me what happened.

20

A

And that's when he moved me out. They

21

came in and tossed up our stuff.

22

Q

And was there anybody else there,

23

other than that officer, that came in

24

to toss the stuff?

25

A

It wasn't that officer. Some other

120

1

K. HARTRY

2

officers came in and tossed it. There

3

was a sergeant there, couple of

4

officers, one of the security guys

5

from security.

6

Q Do you remember who that was from

7

security?

8

A Jackson.

9

Q A person named Jackson?

10

A Yes.

11

Q What happened after that, after they

12

did what you described?

13

A They moved me.

14

Q All right. Do you know where they

15

moved you to?

16

A Down to administrative segregation.

17

Q Okay. A different area of the jail?

18

A Yes.

19

Q Can you describe for me what that area

20

of the jail was like?

21

A It's just like tiers, but it's on the

22

first floor. It's just like the

23

tiers.

24

Q Just at a different designation, only

25

different?



1 K. HARTRY

2 A Yes, first floor.

3 Q From the time you left the pod until  
4 the time you got to the area you  
5 described as administrative  
6 segregation, how much time went by?

7 A I can't remember. I know I was always  
8 calling and trying to get out of the  
9 prison, period. I knew I couldn't  
10 just go without being seen. There's  
11 no way. It's not safe for me to be  
12 anywhere in the jail. I knew it.

13 Q When you say you were "always  
14 calling," who were you calling?

15 A The security team at the jail.

16 Q Again, there's phones in the pods and,  
17 there's a phone in the day area where  
18 you could do that?

19 A Yes.

20 Q I'm just asking. I appreciate your  
21 answer.

22 But you mentioned to me that you were  
23 sent to the pod, and then you were  
24 moved from the pods?

25 A Yes.

1

K. HARTRY

2

Q And then you went to the different  
area where the guy threw paper at you?

3

4

A Yes.

5

Q And then you were moved to the  
administrative segregation area.

6

7

I'm just asking, the area where you  
were there to the area where this guy  
was throwing the paper at you, do you  
remember how long you were there for?

10

11

A I don't recall exactly. No.

12

Q Okay. And there came a time you said  
you got moved to the administrative  
segregation area --

13

14

15

A Yes.

16

Q -- after you were moved from the area  
where the guy was throwing the paper  
at you, correct?

17

18

19

A Yes.

20

Q When you got moved to the  
administrative segregation area, what,  
if anything, occurred at that time?

21

22

23

A I was attacked. In administrative  
segregation, I was attacked by an  
inmate.

24

25

124

1 K. HARTRY

2 Q Okay. Okay. From the time that you  
3 got moved from the area where the guy  
4 was throwing the paper at you -- I  
5 just use that as a phrase because it's  
6 easier to identify it that way. From  
7 the time that you got moved from that  
8 area to October 24th of 2007 when this  
9 guy attacked you, as you said, during  
10 that period of time, did anybody say  
11 anything to you or threaten you at all  
12 during that period of time?

13 A A couple of inmates asked me about  
14 what, you know, they were hearing  
15 around the jail or whatever. Of  
16 course I denied it. I denied it all.  
17 And then one day, I guess, this guy,  
18 he didn't ask no questions.

19 Q Okay. We're going to get to him. I'm  
20 just asking about that period of time,  
21 period of time when you got hit in the  
22 area where the guy was throwing the  
23 paper to the date when the guy, on  
24 October 24, 2007, when you say the guy  
25 attacked you, during that period of

125

1 K. HARTRY

2 time, did anybody threaten you at all?

3 A No threats. No.

4 Q Just those --

5 A Not really.

6 Q Just the conversations that you  
7 described about guys asking you if  
8 it's true, that type thing?

9 A Yes.

10 Q And you denied it?

11 A Right.

12 Q Okay. During the period of time that  
13 you were in that area called  
14 administrative segregation, where were  
15 you specifically assigned? Do you  
16 recall?

17 A I was in the day area.

18 Q Was there a time during that period of  
19 time that you were actually put into a  
20 cell?

21 A Where? In --

22 Q In administrative segregation.

23 A I would think I was -- I believe I was  
24 in a cell. Yeah, something was wrong  
25 with the cell. It was something.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

K. HARTRY

more than the person in the cell,  
correct?

A Right.

Q You mentioned to me that on October  
24, 2007, something happened, correct?

A Yes.

Q Okay. Tell me what happened on  
October 24, 2007.

A I was doing something at my bunk in  
the day area, and some inmate was  
behind me, talking about "You snitch,  
you a rat," something of that nature.  
He tapped me on the shoulder. When I  
turned around, he hit me in the face  
with something.

Q Let me stop you. When this person was  
talking, was he talking to anybody in  
particular?

A He was talking to me.

Q Were there other persons around there?

A There's other people in the day area.

Q Okay. At that time, do you recall if  
there were other inmates in the day  
area?

1

K. HARTRY

2

A Yes.

3

Q And when he's saying those words, was  
4 he speaking -- I know you say he was  
5 talking to you, but was there another  
6 inmate there that he was having a  
7 conversation with, or was he directing  
8 that to you?

9

A He was directing it to me.

10

Q Where specifically were you?

11

A Where what?

12

Q Were you. Were you on your bunk?

13

A I was at my bunk. I was standing over  
14 my bunk, doing something.

15

Q Okay. And this person in some fashion  
16 was behind you?

17

A Yes.

18

Q And you heard him saying words about  
19 you being a snitch?

20

A Yes.

21

Q Do you know if he was screaming or  
22 yelling?

23

A He was like, "I hate rats. You be  
24 snitching, and I can't be around  
25 snitches and rats." And as soon as he

1

K. HARTRY

2

Q And is it fair to say that he did this  
3 without warning? He didn't give you  
4 any warning that he was going to hit  
5 you?

6

A No. He just saying something about,  
7 you know, "snitch."

8

Q Okay.

9

A I wasn't quick enough to turn around  
10 and see, you know. He was coming at  
11 me like --

12

Q Okay. It was right after he tapped on  
13 your shoulder? You turned, and that's  
14 when you got hit?

15

A Yes.

16

Q Tell me what happened after you got  
17 hit.

18

A I was dazed and I fell on the floor.  
19 As a matter of fact, he flipped me and  
20 I fell because I was dazed. You know  
21 what I mean?

22

Q Let me stop you. When you got hit  
23 with this object, where on your person  
24 did you get hit?

25

A On my face.

1 K. HARTRY

2 Q Any particular spot?

3 A Yes, under my eye, right in my eye, my  
4 left eye (indicating).

5 Q Okay. Indicating -- the witness is  
6 indicating his left eye with his left  
7 hand.

8 You said then you went down to the  
9 ground?

10 A He flipped me. Once he seen that I  
11 was dazed, I couldn't defend myself,  
12 he flipped me.

13 Q When you say "flipped" you, could you  
14 just describe that any more for me?

15 A He stuck his leg out behind me, behind  
16 my legs, put one of his arms in front  
17 of my chest, and flipped me.

18 Q Did you go to the ground?

19 A Yes.

20 Q What happened when you got on the  
21 ground?

22 A He kept punching me.

23 Q And what was he doing?

24 A He was punching me, kept punching me  
25 in my face.



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

K. HARTRY

you spoke to Detective Daly on the  
telephone?

MR. NORINSBERG: Note  
my objection.

A Yes, I talked to him on the telephone.

Q When you spoke to Detective Daly on  
the telephone, you told him about your  
concerns; he indicated to you that  
they would try to get you moved?

A Yes.

Q And during that same period of time,  
from the period of time that people  
learned that you were a witness to the  
period of time to October 24, 2007,  
during that same period of time, did  
you have any conversations with  
Sergeant Lunquis?

A Yes.

Q About how many times did you speak to  
Sergeant Lunquis?

A Ten, 20 times approximately.

Q Were they all in person, or on the  
phone, or a little bit of both?

A Most of them were on the telephone,

1

K. HARTRY

2

over the phone.

3

Q Okay. About how many times did you  
4 call him on the telephone?

5

A I'm not sure. I'm not sure. Ten,  
6 approximately 15 times.

7

Q Okay. And if I could just use this.  
8 From the time that the guy threw the  
9 paper at you, from that period of time  
10 until October 24, 2007, about how many  
11 times have you spoken to Sergeant  
12 Lunquis?

13

A I can't -- I'm summing it all up from  
14 the time.

15

Q I understand.

16

A I'm not sure. I can't remember how  
17 many times I called him after that  
18 specific incident. I don't know.

19

Q When you spoke to him, what, if  
20 anything, did you say to him?

21

A I was telling him, you know, that my  
22 life is in danger, that I need to be  
23 moved, and what's going on with me  
24 being moved out of jail.

25

Q Okay. What, if anything, did Sergeant

1

K. HARTRY

2

Lunquis say to you?

3

A He said that he was going to get to  
4 it. He was going to get me moved or  
5 whatever. He kept telling me that  
6 every time, and it never happened.

7

Q When he said he was "going to get to  
8 it," did he ever specifically say to  
9 you that he was going to move you to  
10 Nassau County Jail?

11

A Yes.

12

Q He used those words, "I'm going to  
13 move you"? "We're going to move you,  
14 we're going to get to it, we're going  
15 to move you to Nassau Jail"?

16

A Yes. "We're going to get to Nassau."  
17 That's what he said.

18

Q And this was before October 24th of  
19 2007?

20

A Yes.

21

Q And as far as on October 24, 2007, do  
22 you know the name of this guy that  
23 punched you?

24

A Before then?

25

Q No. No, now. As you're sitting here

1

K. HARTRY

2

now, do you know what his name is?

3

A Yes.

4

Q What's his name?

5

A His name is Vincent Dalton.

6

Q Okay. And, to the best of your

7

knowledge -- I know you mentioned

8

Dalton said some things about not

9

liking snitches, not liking a rat,

10

things like that, correct, before he

11

hit you?

12

A Yes.

13

Q Other than that, did you have any

14

other information that would lead you

15

to believe how Dalton knew that you

16

were cooperating? You follow my

17

question?

18

A You know, it's prison. If one person

19

knows, everybody knows. It's just a

20

matter of time, and it doesn't take

21

that long.

22

Q My question to you --

23

A I don't know who specifically to know.

24

I don't know where he went. Who

25

knows. It was something always going

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

K. HARTRY

be a witness that some people on a tier said threatening things to you, correct?

A The first time this Brooks, the king of the Bloods, the first thing he said, "When I get those statements, you cannot live in this jail."

Q I appreciate that.

A I told that to the security team.

Q Right. And the security team --

A They did nothing.

Q -- they moved you, correct?

A They did nothing. I remained in the Suffolk County Jail.

Q I understand you're saying they did nothing. The question I'm asking you is: When you made that complaint, they moved you from that area of the jail to a different area of the jail, correct?

A Yes.

Q When you got to the different area of the jail, there was other things that happened, and that would be the pod,

178

1 K. HARTRY

2 Okay, John. Ask your

3 questions.

4 EXAMINATION

5 BY MR. NORINSBERG:

6 Q Was moving you from one area of the  
7 jail to another area of the jail an  
8 adequate response to your complaints,  
9 as far as you're concerned?

10 MR. MITCHELL: I  
11 object.

12 A Of course not.

13 Q Why not?

14 A Because you still -- you still -- you  
15 still are in contact with people. I  
16 could still see people that were still  
17 on the same tier with me. I could go  
18 sit on a visit; next to me is some guy  
19 that just threatened me yesterday.  
20 You know what I mean? No.

21 Q What measures would need to be taken  
22 to protect your safety, as far as  
23 you're concerned?

24 MR. MITCHELL: Note my  
25 objection. You can

1

K. HARTRY

2

answer.

3

A To be moved out of the jail.

4

Q Did Sergeant Lunquis actually tell you  
5 that you would be moved out of that  
6 facility?

7

A Yes.

8

Q Now, you were given a ticket alleging  
9 that you were in a fight with Dalton,  
10 correct?

11

A Yes.

12

Q Were you, in fact, in a fight with  
13 Dalton?

14

A No.

15

Q Did you ever punch Dalton?

16

A No.

17

Q Did you ever hit Dalton?

18

A No.

19

Q Did you ever strike Dalton in any way?

20

A No.

21

Q Did you kick Dalton?

22

A No.

23

Q Did you use any physical force against  
24 Dalton?

25

A No.

**EXHIBIT B**



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
KYLE HARTRY,

PLAINTIFF,

-against-

Index No:  
CV08-3725

COUNTY OF SUFFOLK, SGT. "JOHN" LUNQUIS,  
INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY,  
DET. VINCE DALY, INDIVIDUALLY AND IN HIS  
OFFICIAL CAPACITY & C.O., "JOHN DOE" & C.O.  
"JANE DOE" #1-10 INDIVIDUALLY AND IN THEIR  
OFFICIAL CAPACITIES, (THE NAME JOHN DOE  
BEING FICTITIOUS AS THE TRUE NAMES ARE  
PRESENTLY UNKNOWN),

DEFENDANTS.

-----X  
DATE: MAY 7, 2010  
TIME: 11:10 A.M.

EXAMINATION BEFORE TRIAL of the  
Defendant, STEVEN LUNDQUIST, s/h/a "John"  
Linguis, taken by the Plaintiff, pursuant  
to a Court Order, held at the Offices of  
SUFFOLK COUNTY ATTORNEY, 100 Veterans  
Memorial Boulevard, Hauppauge, New York  
11788, before a Notary Public of the State  
of New York.

1 LUNDQUIST

2 Q. When you say interacting with  
3 Kyle Hartry, what do you mean?

4 A. Having conversations, passing  
5 him in the corridor, involved in the  
6 incident in the jail, I may have dealt with  
7 him at that point.

8 Q. Did you ever receive any phone  
9 calls from Kyle Hartry while he was at the  
10 facility?

11 A. Yes.

12 Q. How many phone calls in total  
13 did you receive from Kyle Hartry?

14 A. I don't know.

15 Q. By the way, if I referred to  
16 the jail as Riverhead, would you know what  
17 I'm referring to?

18 A. Yes.

19 Q. Was it between 15 and 20 phone  
20 calls?

21 A. I don't recall the exact  
22 amount.

23 Q. Was it between 10 and 15 phone  
24 calls?

25 A. I don't recall the exact

1 LUNDQUIST

2 number.

3 Q. Was it between 25 and 30 phone  
4 calls?

5 A. I don't recall.

6 Q. Can you give any approximation  
7 at all as to how many phone calls that Mr.  
8 Hartry made to you?

9 MR. MITCHELL: Specify a time  
10 between when and when.

11 Q. In the fall of 2007, which I  
12 will define right now for the purpose of  
13 the deposition from the beginning of  
14 September through the end of October 2007.  
15 So during that time frame, how many phone  
16 calls in total did you receive from Kyle  
17 Hartry?

18 A. Ten to 20.

19 Q. What were those phone calls  
20 about, to the best of your memory?

21 A. Information on ongoing things  
22 in the jail.

23 Q. During those 10 to 20 phone  
24 calls did Mr. Hartry ever express any  
25 concerns to you about his safety in the

1 LUNDQUIST

2 jail?

3 A. Yes.

4 Q. What type of concerns did Mr.  
5 Hartry express to you?

6 A. Concern of his safety.

7 Q. What specifically did Mr.  
8 Hartry tell you about his concern for his  
9 own safety in the jail?

10 A. I don't remember any specifics.

11 Q. Can you tell us in sum and  
12 substance what were the general complaints  
13 or concerns that Mr. Hartry was expressing  
14 to you during the phone calls?

15 A. Basically that he was a  
16 cooperating witness.

17 Q. Did you have an understanding  
18 of the terms cooperating witness?

19 MR. MITCHELL: Object to the  
20 form. You can answer.

21 A. Repeat the question?

22 Q. What is your understanding of  
23 what it means to be a cooperating witness?

24 A. Someone who is cooperating with  
25 the authority.

1 LUNDQUIST

2 Q. Is that also known as a  
3 confidential informant?

4 A. It could be.

5 Q. When did you first learn that  
6 Mr. Hartry was a cooperating witness?

7 A. I don't recall the date.

8 Q. Did you learn that Mr. Hartry  
9 was a cooperating witness at some point in  
10 September of 2007?

11 A. I don't recall the date.

12 Q. Is it possible that you knew  
13 that Mr. Hartry was a cooperating witness  
14 within the first week of September 2007?

15 MR. MITCHELL: Object to the  
16 form. You can answer.

17 A. Repeat the question?

18 Q. Is it possible that you knew  
19 Mr. Hartry was acting as a cooperating  
20 witness in the first week of 2007  
21 September?

22 A. Possible.

23 Q. How did you first learn that  
24 Mr. Hartry was acting as a cooperating  
25 witness?

1 LUNDQUIST

2 Q. All questions in the deposition  
3 will relate to the fall of 2007 including  
4 September and October unless otherwise  
5 specified.

6 A. He asked that we look out for  
7 his safety.

8 Q. When Detective Daly asked that  
9 you look out for Kyle Hartry's safety, what  
10 exactly did he tell you?

11 A. That he was a cooperating  
12 witness.

13 Q. Did Detective Daly express any  
14 concern about Kyle Hartry's safety?

15 A. Yes, we had a conversation. He  
16 asked that we look out for him, Kyle.

17 Q. What was your response to this  
18 request?

19 A. That we would look out for him.

20 Q. Did Detective Daly tell you why  
21 he had concerns about the safety of Kyle  
22 Hartry?

23 A. Yes, because he was a  
24 cooperating witness.

25 Q. In your experience, is a

1 LUNDQUIST

2 there and you were there, correct?

3 A. Yes.

4 Q. How long did the meeting last  
5 between Detective Daly and Kyle Hartry on  
6 September 20?

7 A. I don't remember specifically.

8 Q. Was it more than a half hour?

9 A. Yes, I believe so.

10 Q. Was it more than an hour?

11 A. I'm not sure.

12 Q. Was it some time between a half  
13 hour and an hour?

14 A. Yes.

15 Q. What did Detective Daly discuss  
16 with Kyle Hartry during that meeting?

17 A. The meeting was between the two  
18 of them. I was just there, I didn't pay  
19 attention to what they were talking about.

20 Q. During the meeting on September  
21 20, 2007, did Kyle Hartry ever express  
22 concern to Detective Daly about his safety?

23 A. I had a discussion with  
24 Detective Daly about it, yes.

25 Q. What did Detective Daly tell

1 LUNDQUIST

2 you about it during this meeting?

3 A. That he was concerned for his  
4 safety.

5 Q. Detective Daly told this to you  
6 in person during this meeting on September  
7 20, 2007, correct?

8 A. During the meeting with him and  
9 Hartry?

10 Q. Yes.

11 A. Yes.

12 Q. Did Detective Daly tell you why  
13 he was concerned about Kyle Hartry's  
14 safety?

15 A. Yes.

16 Q. What did Detective Daly tell  
17 you as to the reasons why he was concerned  
18 about Kyle Hartry's safety?

19 A. I don't remember any specifics.

20 Q. In sum and substance, do you  
21 remember the general concerns that  
22 Detective Daly mentioned to you on  
23 September 20, 2007?

24 A. Could you repeat that, please?

25 Q. You testified a moment ago you



1 LUNDQUIST

2 don't remember the specific details of what  
3 Detective Daly told you, about his concerns  
4 regarding Kyle Hartry, correct?

5 A. Correct.

6 Q. Can you tell us generally what  
7 were those concerns?

8 A. That other inmates would know  
9 that he was going to testify.

10 Q. Did Detective Daly mention any  
11 specific reasons why he was concerned that  
12 other inmates might know about this?

13 A. I don't understand the  
14 question.

15 Q. To your knowledge, did Kyle  
16 Hartry make out a written statement  
17 describing what he had witnessed on the  
18 homicide?

19 MR. MITCHELL: Just as far as a  
20 time, Jon, during the meeting between  
21 Daly and Hartry or at any time?

22 Q. To your knowledge, did Kyle  
23 Hartry ever prepare a written statement  
24 describing what he had observed with regard  
25 to this homicide?

1 LUNDQUIST

2 A. Did I ever see it?

3 Q. To your knowledge, did Kyle  
4 Hartry ever prepare a written statement  
5 describing his knowledge of what happened  
6 during this homicide?

7 A. Did I believe that he wrote a  
8 statement, that is what you are asking?

9 MR. MITCHELL: Did you know, do  
10 you know if Kyle Hartry wrote a  
11 statement in relation to a homicide  
12 he was a witness to, is that fair?

13 A. Yes.

14 Q. So you knew that Kyle Hartry  
15 had, in fact, written a statement  
16 describing the homicide, correct?

17 A. The fact that he was a  
18 cooperating witness lead me to believe he  
19 had written a statement.

20 Q. To your knowledge, was that  
21 statement circulated amongst inmates at  
22 Riverhead?

23 A. I don't recall that.

24 MR. MITCHELL: When you say you  
25 don't recall that, are you saying it

1 LUNDQUIST

2 time?

3 A. I don't recall seeing it.

4 Q. Did anybody ever tell you that  
5 Kyle Hartry had written a statement and  
6 that this statement had been circulated  
7 amongst inmates at Riverhead?

8 A. Did anybody ever tell me that?

9 Q. Yes.

10 A. During that time period?

11 Q. Yes.

12 A. That, I don't remember.

13 Q. If you had learned that Kyle  
14 Hartry's statement had been circulated  
15 amongst the inmates at Riverhead, would  
16 that have raised any concern about his  
17 safety in your mind?

18 A. Yes.

19 Q. Why would that have raised  
20 concern about his safety?

21 A. Because fear of retribution.

22 Q. When you say retribution, can  
23 you be more specific?

24 A. He would or he could become a  
25 target.

1 LUNDQUIST

2 Q. Why would writing a statement  
3 out describing a homicide, why would that  
4 make Kyle Hartry a target at Riverhead?

5 MR. MITCHELL: I object to the  
6 form. You can answer.

7 A. Because you are not suppose to  
8 testify against another inmate.

9 Q. Are you familiar with the term  
10 snitch?

11 A. Yes.

12 Q. What does the term snitch mean?

13 A. Somebody who tells on somebody  
14 else.

15 Q. In the content of context of  
16 inmates at Riverhead, how are snitches  
17 treated at that facility?

18 MR. MITCHELL: By other  
19 inmates?

20 MR. NORINSBERG: Yes.

21 A. I don't understand question.  
22 How are they treated?

23 Q. What safety concerns, if any,  
24 would you have if Kyle Hartry was  
25 identified as a snitch and this was known

1 LUNDQUIST

2 protective custody?

3 A. If it was a threat from other  
4 inmates.

5 Q. Did there come a time where you  
6 learned that Kyle Hartry had, in fact, been  
7 threatened by other inmates at Riverhead?

8 A. Could you repeat that?

9 Q. Did there come a time that you  
10 learned that Kyle Hartry had, in fact, been  
11 threatened by other inmates at Riverhead?

12 A. When he got moved to protective  
13 custody.

14 Q. What did you learn at that  
15 time?

16 A. That he felt he was threatened.

17 Q. During the 10 to 20 phone calls  
18 that Kyle Hartry made to you in the fall of  
19 2007, did he ever tell you that he had been  
20 threatened by other inmates?

21 A. He may have said he feared for  
22 his safety. He never made any specific  
23 threat mentioned, any body specific.

24 Q. It is your testimony today that  
25 Kyle Hartry never made any specific

1 LUNDQUIST

2 have any type of internal record keeping  
3 for phone calls that are made from a  
4 housing unit to security?

5 A. We do now. We didn't have that  
6 in place at that time we are speaking of,  
7 September of 2007.

8 Q. Are you certain about that?

9 A. Yes.

10 Q. When was the new record keeping  
11 system put in?

12 A. I can't give you a specific  
13 date. It was after that.

14 Q. Was it some time in the year  
15 2007?

16 A. I don't believe so.

17 Q. Was it some time in the year  
18 2008?

19 A. I don't remember the exact  
20 date.

21 Q. After the 10 to 20 phone calls  
22 that you received from Kyle Hartry, did you  
23 ever make any type of report?

24 A. No.

25 Q. Did you ever make any type of

1 LUNDQUIST

2 note or record relating to the phone calls  
3 that you had with Kyle Hartry?

4 A. No.

5 Q. Why didn't you make any reports  
6 after you received the phone calls from  
7 Kyle Hartry?

8 A. There was no need to make a  
9 report.

10 Q. If an inmate expressed concern  
11 to you about his safety, are there any  
12 circumstances in which you will generate a  
13 report?

14 A. If his status changed. Changed  
15 from general population to protective  
16 custody there would have been a report  
17 generated.

18 Q. What type of report would be  
19 generated if Mr. Hartry's status changed  
20 from general population to protective  
21 custody?

22 A. Would have been a referral  
23 written, called a three way. Also would  
24 have been a housing change administrative  
25 segregation or PC form filed. PC is

1 LUNDQUIST

2 Hartry's safety after this fight?

3 A. Yes.

4 Q. What in your mind raised  
5 concerns about Kyle Hartry's safety after  
6 this fight?

7 A. That if he was, if he felt that  
8 he was unsafe, he will not be a good  
9 witness.

10 Q. Why would he feel that he was  
11 unsafe?

12 A. 'Cause he just been in a fight.

13 Q. As far as your testimony is you  
14 knew nothing about the circumstances of  
15 that fight, correct?

16 MR. MITCHELL: Object to the  
17 form. You can answer.

18 A. Are we talking prior to the  
19 fight or after the fight?

20 Q. After the fight, did you learn  
21 anything from Kyle Hartry about what had  
22 happened?

23 A. Yes, that he said that Dalton  
24 had threatened him and they got into a  
25 fight.



1 LUNDQUIST

2 A. He said that he punched him  
3 first.

4 Q. Did he say that he had punched  
5 him from behind?

6 A. I don't remember.

7 Q. Did you learn anything about  
8 the circumstances of how Mr. Dalton had  
9 punched Mr. Hartry?

10 A. I don't understand your  
11 question. He punched him.

12 Q. How did he punch him?

13 A. With his fist.

14 Q. Where?

15 A. That, I don't remember.

16 Q. Did you ask Mr. Hartry that?

17 A. He had injuries to his face. I  
18 really didn't have to ask him.

19 Q. Did you see any injuries on Mr.  
20 Dalton?

21 A. I don't remember.

22 Q. Did you ever speak to Mr.  
23 Dalton?

24 A. Someone spoke to him. I don't  
25 remember if it was me or not.

1 LUNDQUIST

2 might have been attacked by inmate Dalton?

3 A. He said that Dalton had  
4 initiated and thrown the first punch.

5 Q. Did Kyle Hartry tell you  
6 anything else that made you believe that  
7 inmate Dalton had attacked him?

8 A. He said that he was punched  
9 first, so I mean semantics, he said Dalton  
10 initiated the fight and Dalton punched him.

11 Q. Did Mr. Hartry tell you  
12 anything that lead you to believe that Mr.  
13 Dalton had punched him because he was a  
14 cooperating witness?

15 A. Can you repeat that?

16 Q. Did Mr. Hartry tell you  
17 anything that lead you to believe that Mr.  
18 Dalton had punched Mr. Hartry because Mr.  
19 Hartry was a cooperating witness?

20 A. Yes.

21 Q. What did Mr. Hartry tell you  
22 that lead you to believe that he had been  
23 punched by Mr. Dalton because he was a  
24 cooperating witness?

25 A. He said that Dalton had said

1 LUNDQUIST

2 something about him being a cooperating  
3 witness.

4 Q. What did Kyle Hartry tell you  
5 about this?

6 A. That he believes that Dalton  
7 had hit him because he was a cooperating  
8 witness.

9 Q. Did he give you any specific  
10 word that Mr. Dalton had spoken that made  
11 him think that?

12 A. That, I don't remember.

13 Q. What was your response, if any,  
14 to Mr. Hartry's complaint?

15 A. Remove him from the housing  
16 area with Dalton.

17 Q. Where did you move him to?

18 A. I would have to look at the  
19 record. I believe we moved him to the  
20 observation area.

21 Q. What is the observation area?

22 A. It is a small housing unit of  
23 inmates that are constantly observed by the  
24 officers.

25 Q. When you say constantly

1 LUNDQUIST

2 observed, do you mean 24 hours a day?

3 A. There is an officer there 24  
4 hours a day.

5 Q. Seven days a week?

6 A. Yes.

7 Q. Did there come a time where Mr.  
8 Hartry was placed in the observation unit?

9 A. I believe so, yes.

10 Q. Was that in September of 2007?

11 A. I will have to refer to the  
12 record.

13 Q. Was Mr. Hartry placed in the  
14 observation unit before or after the  
15 incident with Mr. Dalton?

16 A. I have to look at the record.  
17 I believe it was after.

18 Q. Have you reviewed any record  
19 before coming here today?

20 A. Yes.

21 Q. What record did you review?

22 A. The record Mr. Mitchell has.

23 Q. Can you describe the record you  
24 looked at before your deposition?

25 A. Housing sheet.

1 LUNDQUIST

2 A. No, because somebody else could  
3 have been there in the meeting and he could  
4 have talked to me later. I don't remember  
5 the exact circumstances.

6 Q. Would it be fair to say that  
7 Detective Daly requested that you attend  
8 this meeting for the specific purpose of  
9 discussing Kyle Hartry's safety at  
10 Riverhead?

11 A. No.

12 Q. As it turned out you did, in  
13 fact, you did discuss Kyle Hartry's safety  
14 at this meeting, correct?

15 A. Yes.

16 Q. Are you familiar what is known  
17 as a substitute jail order?

18 A. Yes.

19 Q. What is a substitute jail  
20 order?

21 A. You request to send an inmate  
22 to another facility.

23 Q. Under what circumstances is a  
24 substitute jail order issued?

25 A. Many different circumstances.

1 LUNDQUIST

2 Q. Can you give us an example of  
3 some of the circumstances under which a  
4 substitute jail order would be issue?

5 A. It could be if a person is a  
6 relative, has a relative that is a member  
7 of the staff. Could be if they are  
8 involved in a crime against any of the  
9 officers in the jail. There is a lot of  
10 reasons.

11 Q. Have you used abbreviation SJO  
12 for substitute jail order?

13 A. Yes.

14 Q. If I refer to it as SJO you  
15 will know what I'm referring to?

16 A. Yes.

17 Q. To your knowledge, is an SJO  
18 ever issued because there is a concern  
19 about the safety of a particular inmate?

20 A. Yes.

21 Q. Under what circumstances would  
22 a SJO be issued to protect an inmate?

23 A. If we couldn't protect him in  
24 Riverhead.

25 Q. Can you give us an example of

1 LUNDQUIST

2 A. It could be. It is on a case  
3 by case basis.

4 Q. Did, to your knowledge, did  
5 Kyle Hartry receive any death threats while  
6 he was at Riverhead?

7 A. No.

8 Q. If he had, in fact, received a  
9 death threat, would you have issued a SJO  
10 based on the death threat?

11 A. Case by case basis. It would  
12 have to be approved by my supervisor.

13 Q. Who would be responsible for  
14 initiating an SJO?

15 A. Person that received the  
16 information.

17 Q. Can you describe the process  
18 for getting an SJO?

19 A. You have to, there is a form  
20 you have to fill out. It lists inmate  
21 pediatrician agree, information,  
22 circumstances why you want an SJO. It is  
23 passed up to the supervisor.

24 Q. How long does it generally take  
25 to fill out that form?

1 LUNDQUIST

2 A. Ten minutes.

3 Q. How long does it generally take  
4 to get an inmate transferred once an SJO  
5 form is filled out?

6 A. Depends.

7 Q. What would be the usual time  
8 frame for transferring an inmate once an  
9 SJO form is filled out?

10 A. That is to be approved by the  
11 state. You have to get permission from the  
12 state, warden.

13 Q. How long does that usually  
14 take?

15 A. Depends on the time of day, day  
16 of week.

17 Q. Would it be something that  
18 could be done in one day?

19 A. Yes.

20 Q. In your experience that has  
21 happened many times, correct?

22 MR. MITCHELL: Object to the  
23 form. You can answer.

24 A. Yes.

25 Q. Did you ever discuss with



1 LUNDQUIST

2 Detective Daly possibility of issuing an  
3 SJO for Kyle Hartry?

4 A. After the fight with Dalton.

5 Q. At any time prior to the fight  
6 with Dalton, did you ever discuss getting  
7 an SJO for Kyle Hartry with Detective Daly?

8 A. I don't remember.

9 Q. At any time prior to the  
10 incident with Mr. Dalton, did you ever  
11 discuss with anybody at Riverhead the  
12 possibility of getting an SJO for Kyle  
13 Hartry?

14 A. You mean another officer?

15 Q. Any other employee at  
16 Riverhead?

17 A. No.

18 Q. Did you consider trying to get  
19 an SJO for Kyle Hartry at any time, before  
20 the incident with Mr. Dalton?

21 A. No.

22 Q. Why didn't you consider getting  
23 an SJO for Kyle Hartry before the incident  
24 with Mr. Dalton?

25 A. We had housing areas in the

1 LUNDQUIST

2 document?

3 A. 10/25/07.

4 Q. This would be after the  
5 incident with Mr. Dalton, correct?

6 A. Correct.

7 Q. In fact, you filled out this  
8 document the day after the incident with  
9 Mr. Dalton?

10 A. I don't know the specific date  
11 of the incident with Dalton.

12 Q. To the best of your knowledge,  
13 how much time past from the time of the  
14 incident with Mr. Dalton to the time that  
15 you filled out this SJO request?

16 A. A day, maybe a day. I don't  
17 remember specifically.

18 Q. I would like you to focus on  
19 the section which says reason for request.  
20 Do you see that?

21 A. Justification.

22 Q. Just directing to that box, do  
23 you see the reason for request?

24 A. Yes.

25 Q. Then below that inside the box

1 LUNDQUIST

2 Q. So Mr. Hartry was going to give  
3 testimony against another inmate in the  
4 facility that he was at, correct?

5 A. Yes.

6 Q. Referring to the second line  
7 where it says in part, quote this  
8 information became well known throughout  
9 the jail end quote. What information were  
10 you referring to?

11 A. The fact that he had written a  
12 statement.

13 Q. So the fact Mr. Hartry had  
14 written a statement had been well known  
15 throughout the jail, correct?

16 A. Yes. That is what it says.

17 Q. You wrote those words, correct?

18 A. Um-hum.

19 Q. You have to answer yes or no?

20 A. Yes.

21 Q. When you wrote those words you  
22 were careful to be accurate, correct, sir?

23 MR. MITCHELL: Object to the  
24 form. You can answer.

25 A. Yes.

1 LUNDQUIST

2 Q. How did you know that the  
3 information had been well known throughout  
4 the jail?

5 A. Through other inmates talking.

6 Q. You heard from other inmates  
7 talking that they knew something about Kyle  
8 Hartry?

9 A. Yes.

10 Q. When did you first hear other  
11 inmates talking about Kyle Hartry?

12 A. I don't remember any specific  
13 date.

14 Q. Was it some time in September  
15 of 2007?

16 A. Yes.

17 Q. Apart from hearing other  
18 inmates talking about Kyle Hartry, was  
19 there any other way that you knew that this  
20 information had become well known  
21 throughout the jail?

22 A. Through Hartry himself.

23 Q. What did Mr. Hartry tell you?

24 A. That he had heard inmates  
25 talking about him.

1

LUNDQUIST

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Q. So you knew from Mr. Hartry himself as well as from other inmates that Mr. Hartry was known as a cooperating witness, correct?

A. Yes.

Q. Referring to the next sentence it says, quote Hartry has been labeled a rat, end quote. Do you see that, sir?

A. Yes.

Q. How did you know that Mr. Hartry has been labeled a rat?

A. Through other inmates and through Hartry himself.

Q. When did you first learn that Mr. Hartry had been labeled a rat?

A. I don't recall the date.

Q. Some time in September of 2007?

A. Yes.

Q. Referring to the last part of this sentence, it says Hartry has been labeled a rat and has received threats, do you see that, sir?

A. Yes.

Q. How did you know that Mr.

1 LUNDQUIST

2 Hartry received threats?

3 A. From Hartry.

4 Q. Mr. Hartry told you he had  
5 received threats, is that correct?

6 A. Yes.

7 Q. When did Mr. Hartry tell you he  
8 had received threats from other inmates?

9 A. I don't remember the date.

10 Q. Some time in September of 2007?

11 A. I don't recall the date.

12 Q. Was it during the 10 to 20  
13 phone calls that you spoke with Mr. Hartry  
14 about?

15 A. I don't remember.

16 Q. At some point you learned from  
17 Mr. Hartry himself that he had received  
18 threats from other inmates, correct?

19 A. Yes.

20 Q. Did you learn Mr. Hartry  
21 received threats from other inmates at any  
22 time prior to the incident involving Mr.  
23 Dalton?

24 A. Yes.

25 Q. How much time past from the

1 LUNDQUIST

2 A. Ten, 15 minutes.

3 Q. After you filled out this form,  
4 what steps, if any, did you take with  
5 regard to this SJO?

6 A. Forwarded to Lieutenant  
7 Hennesey.

8 Q. Who is Lieutenant Hennesey?

9 A. Commanding officer of the  
10 record section.

11 Q. Why did you forward the form to  
12 Lieutenant Hennesey?

13 A. Protocol.

14 Q. What, if anything, did  
15 Lieutenant Hennesey do with this form, to  
16 your knowledge?

17 A. He forwarded it to one of the  
18 sergeants in the record area who contacted  
19 the state, who contacted Nassau County.

20 Q. All of this was done on October  
21 25, 2007, correct?

22 A. I believe so, yes.

23 Q. Based on the SJO request you  
24 filled out, was Kyle Hartry transferred to  
25 the Nassau County Correctional Facility?

1 LUNDQUIST

2 A. Yes.

3 Q. At any time before October 25,  
4 2007, did you ever consider preparing a  
5 substitute jail order for Mr. Hartry?

6 A. No.

7 Q. At any time before October 25,  
8 2007, did you ever consider making a  
9 request for an SJO to transfer Mr. Hartry  
10 to any other facility?

11 A. No.

12 Q. Why not?

13 A. Because he was appropriately  
14 housed in the jail.

15 Q. When you say appropriately  
16 housed, what do you mean?

17 A. He was housed in an area where  
18 he would be safe.

19 Q. Would you agree that as it  
20 turned out he was not housed in an area  
21 that was safe?

22 MR. MITCHELL: Object to the  
23 form. You can answer.

24 A. Repeat that?

25 Q. Would you agree as it turned



1 LUNDQUIST

2 Q. When you are over crowded you  
3 put inmates in a day area?

4 A. Yes.

5 Q. Are those inmates then in an  
6 open area?

7 A. It is not an open area. There  
8 is a set of bars there.

9 Q. Relative to the other jail  
10 cells there, are they in an open area where  
11 they have free contact with each other?

12 A. Yes.

13 Q. Is there anything separating  
14 one inmate from another inmate if both of  
15 them are in a day area?

16 A. No.

17 Q. By the way, when I refer to day  
18 bed, is it referred to as day area?

19 A. Day beds are in the day area.

20 Q. Did you investigate the  
21 incident that took place between Mr. Hartry  
22 and Mr. Dalton?

23 A. I believe inmates were  
24 interviewed.

25 Q. To your knowledge, did you

1 LUNDQUIST

2 A. Threat of physical harm, threat  
3 to familiarity, threat to officers.

4 Q. If an inmate made a threat to  
5 Kyle Hartry, which he threatened to  
6 physically harm Kyle Hartry, would that be  
7 the basis for moving Kyle Hartry to another  
8 facility?

9 A. Not necessarily.

10 Q. Under what circumstances would  
11 that be a basis for moving an inmate to  
12 another facility?

13 A. If we felt we couldn't provide  
14 a safe location for them.

15 Q. What would be the determining  
16 factor, if an inmate came to you and said  
17 somebody just threaten to beat me up, what  
18 would be the determining factor for you as  
19 to whether or not that inmate should be  
20 moved somewhere else?

21 A. It would be the scope of the  
22 threat. If one inmate threaten another  
23 inmate we are not moving them to another  
24 jail.

25 Q. How many inmates would have to

1 LUNDQUIST

2 threats would not be sufficient, I  
3 don't believe that would be his  
4 answer to the question.

5 MR. NORINSBERG: We will go  
6 back and ask him the question again.  
7 Read back the record.

8 (Whereupon, the referred to  
9 question and answer was read back by  
10 the Reporter.)

11 Q. Did you hear the question and  
12 answer read?

13 A. Yes.

14 Q. Why is that not sufficient to  
15 move Kyle Hartry to another facility?

16 A. 'Cause we have areas we can  
17 move people where they will be safe. We  
18 have inmates with multiple number of  
19 threats, it is an everyday occurrence.

20 Q. You had indicated earlier that  
21 the information had become well known  
22 throughout the jail, correct?

23 A. Yes.

24 Q. So it wasn't just a few inmates  
25 that knew about this, it was multiple

1 LUNDQUIST

2 inmates, correct?

3 MR. MITCHELL: Object to the  
4 form. You can answer.

5 A. Yes.

6 Q. How many inmates would have to  
7 know about Kyle Hartry cooperation before  
8 you will consider moving him to another  
9 facility?

10 MR. MITCHELL: Object to the  
11 form. You can answer.

12 A. Enough that we felt he was in  
13 danger.

14 Q. Until Kyle Hartry had the  
15 incident with Mr. Dalton, you didn't feel  
16 he was in any danger in your facility, is  
17 that correct?

18 A. We felt we housed him  
19 appropriately.

20 Q. Do you see where it indicates  
21 inmate data on the top of SJO form in front  
22 of you, Plaintiff's 1?

23 A. Yes.

24 Q. Abbreviation, AMWRIT, what does  
25 that stand for?

1 LUNDQUIST

2 you see that?

3 A. Yes.

4 Q. This process was initiated at  
5 your request, correct?

6 A. Correct.

7 Q. If you had wanted to, could you  
8 have made this request in September of  
9 2007?

10 MR. MITCHELL: Object to the  
11 form. You can answer.

12 A. Yes.

13 Q. If you want to, could you have  
14 made this request in October of 2007 prior  
15 to the incident with Mr. Dalton?

16 MR. MITCHELL: Objection to the  
17 form. You can answer.

18 A. Yes.

19 Q. Approximately, how many SJO's  
20 do you make in given year?

21 A. Five to ten.

22 Q. To your knowledge, how many  
23 SJOs are requested overall by Riverhead  
24 facility in a given year?

25 A. I wouldn't know. I don't know.

1 LUNDQUIST

2 I just know what my unit does.

3 Q. Personally, you would do five  
4 to ten SJOs requests in a given year on  
5 average, correct?

6 A. Around there, yes.

7 MR. NORINSBERG: Mark  
8 Plaintiff's 3, SJO form.

9 (Whereupon, the aforementioned  
10 SJO Form was marked as Plaintiff's  
11 Exhibit 3 for identification as of  
12 this date by the Reporter.)

13 Q. Could you please take a look at  
14 what has been marked as Plaintiff's 3?

15 A. Okay.

16 Q. Do you recognize this document?

17 A. Yes.

18 Q. What do you recognize this  
19 document to be?

20 A. It is an administrative  
21 segregation form, mental health and  
22 security referral.

23 Q. When was this report prepared?

24 A. September 19, 2007.

25 Q. Was this report prepared

1 LUNDQUIST

2 relating to Kyle Hartry?

3 A. Yes.

4 Q. Have you had a chance to read  
5 this report?

6 A. Just read it now.

7 Q. Who prepared this report?

8 A. Investigator McCarick.

9 Q. Directing your attention to the  
10 second line on this report, it says quote,  
11 inmate wrote a statement on another inmate.  
12 Copy of the statement has been passed  
13 around the facility posing a threat to  
14 inmate Hartry's safety, end quote. Do you  
15 see that?

16 A. Yes.

17 Q. According to this statement by  
18 Investigator McCarick Mr. Hartry's  
19 statement had been passed around the jail  
20 facility, correct?

21 A. According to this, yes.

22 Q. Would you agree that if Mr.  
23 Hartry's statement had, in fact, been  
24 passed around the Riverhead facility that  
25 would pose a threat to Mr. Hartry's safety?

1 LUNDQUIST

2 A. Yes.

3 Q. Why would that pose a threat to  
4 Mr. Hartry's safety?

5 A. Because it would show he wrote  
6 a statement on another inmate.

7 Q. That would indicate he was a  
8 snitch, correct?

9 MR. MITCHELL: Object to the  
10 form. You can answer.

11 A. Yes.

12 Q. Would you agree that a snitch  
13 is the worst thing that you could be in  
14 Riverhead?

15 A. No.

16 Q. Did you ever make a public  
17 statement that a snitch is the worst thing  
18 you could be at Riverhead?

19 A. I don't recall.

20 Q. Were you ever interviewed by  
21 the Long Island Press?

22 A. Yes.

23 Q. Did you ever tell the reporter  
24 from the Long Island Press that quote, the  
25 worst thing you could be here is a snitch,



1 LUNDQUIST

2 end quote?

3 MR. MITCHELL: Objection. Give  
4 a time on that, when?

5 Q. Question stands as is.

6 MR. MITCHELL: I object to the  
7 form of the question. Re-ask the  
8 question.

9 MR. NORINSBERG: You have been  
10 helpful, I don't have a problem.  
11 This one I'm not asking about a day  
12 yet, we are not there yet.

13 MR. MITCHELL: I wanted to hear  
14 the term ever, I didn't hear. If you  
15 did, that is fine. I just asked her  
16 to read it back.

17 Q. Did you ever tell the reporter  
18 from the Long Island Press that quote, the  
19 worst thing you could be here is a snitch,  
20 end quote?

21 A. Yes.

22 Q. What did you mean when you made  
23 that statement to the reporter at the Long  
24 Island Press?

25 A. I would have to read that

1 LUNDQUIST

2 Q. Did you see where it says  
3 quote, the worst thing you could be here is  
4 a snitch, end quote. Do you see that?

5 A. Yes.

6 Q. Did you make that statement to  
7 a reporter?

8 MR. MITCHELL: Jon, I'm going  
9 to object. It is not the worst thing  
10 to be here is a snitch, end quote.  
11 The worst thing you have to be here  
12 is a snitch, comma. So we have to  
13 protect people's identity.

14 MR. NORINSBERG: I'm not asking  
15 about the full sentence. I'm asking  
16 about the first clause, you are free  
17 to do so.

18 MR. MITCHELL: I didn't mean  
19 that article says quote, you meant in  
20 your question, end quote.

21 MR. NORINSBERG: Yes.

22 Q. Did you make the statement to  
23 the reporter that quote, the worst thing  
24 you could be here is a snitch, end quote?

25 A. That is what it says here. I

1 LUNDQUIST

2 Q. Did you ever receive a copy of  
3 the report generated by Investigator  
4 McCarick that you previously looked at and  
5 which has been marked Plaintiff's 3?

6 A. What is your question?

7 Q. Did you ever receive a copy of  
8 Plaintiff's 3?

9 A. Prior to today?

10 Q. Yes.

11 A. It would be a copy in my  
12 office. Why?

13 Q. So you were aware of what had  
14 been written on Plaintiff's 3 on or about  
15 September 19, 2007, correct?

16 A. Yes.

17 Q. In fact, Investigator McCarick  
18 actually discussed this issue with you on  
19 or about September 19, 2007, correct?

20 A. Yes.

21 Q. Investigator McCarick  
22 specifically told you that Mr. Hartry's  
23 statement had been passed around the  
24 facility, correct?

25 A. I don't recall that.

1 LUNDQUIST

2 Q. The form has a specific column  
3 where it lists the reason?

4 A. Yes.

5 Q. According to this form Mr.  
6 Hartry was moved from general population  
7 into the Pods because of security, correct?

8 A. Yes.

9 Q. Then he was moved from the Pod  
10 to two west south because of security,  
11 correct?

12 A. Yes.

13 Q. Then he was moved again to two  
14 west north because of security, correct?

15 A. No.

16 Q. So where it says security LC  
17 change --

18 A. No, you have to look at the  
19 line above that. He went from two west  
20 south to two west north.

21 Q. What, to your knowledge, was  
22 the reason for that move?

23 A. It is made by classification.  
24 I don't know why they made that move.

25 Q. As you sit here today, do you

1 LUNDQUIST

2 the floor sergeant. Problem on tier, I  
3 believe that was the day he had the  
4 altercation with Dalton.

5 Q. You testified earlier that the  
6 observation bay is kept under a constant  
7 surveillance, is that correct?

8 A. Yes.

9 Q. So there are correction  
10 officers assigned to monitor bay area 24  
11 hours a day, 7 days a week, correct?

12 A. Yes.

13 Q. Would you agree the observation  
14 area is one of the safest areas in the  
15 prison?

16 A. More segregated, yes.

17 Q. Any area safer than the  
18 observation bay?

19 MR. MITCHELL: Object to the  
20 form. You can answer.

21 A. Safer for inmates?

22 Q. Yes.

23 A. More segregated area.

24 Q. Which would make it the safest  
25 area for inmates, wouldn't it?

1 LUNDQUIST

2 A. Without looking at statistics  
3 for different areas, it would be hard to  
4 say that.

5 Q. Did you ever consider moving  
6 Kyle Hartry into the observation bay before  
7 October 24, 2007?

8 A. No.

9 Q. Why didn't you consider moving  
10 Kyle Hartry into the observation bay before  
11 the incident with Mr. Dalton?

12 A. He was living in that area for  
13 a while and he didn't have any problems.

14 Q. When you say he didn't have any  
15 problems, how do you know that?

16 A. He didn't report any problems.  
17 The officer didn't tell us he was having  
18 any problems.

19 Q. Did you ever tell Mr. Hartry  
20 that you were trying to move him out of the  
21 jail?

22 A. Only after he had the  
23 altercation with Dalton.

24 Q. At any time, before Mr. Hartry  
25 had the altercation with Mr. Dalton, did

1 LUNDQUIST

2 filled out an SJO that was denied?

3 A. Not that I recall.

4 Q. Do you know somebody by the  
5 name of Mrs. C, who worked for security,  
6 the letter C?

7 A. No.

8 Q. Can you think of anybody who  
9 might have been working in security or at  
10 the correctional facility with that letter  
11 in their name?

12 A. No.

13 Q. Did Mr. Hartry ever tell you  
14 that while he was in protective custody  
15 another inmate had threatened him with a  
16 sharp end spoon?

17 A. Yes.

18 Q. What did Mr. Hartry tell you  
19 about that?

20 A. That there was an inmate, he  
21 was in a day area inmate, in a cell, that  
22 he believed had a sharpened spoon and had  
23 threatened him.

24 Q. What action, if any, did you  
25 take when Mr. Hartry made that complaint to

**EXHIBIT C**



- WEEKLY EDITIONS
- BEST OF LI
- About
  - Masthead
  - Contact
- ADVERTISE
- WEATHER

## Locked Up

### *Landing behind bars can make or break a gang banger*

By Timothy Bolger on Sep 24th, 2009



Recommend

Be the first of your friends to recommend this.

#### *Part 2 of our special series, Gangs of Long Island*

In early 2006, Melvin Daniels was a 20-year-old cocaine dealer for the Prospect Piru set of the Bloods in Westbury. The young man known as "Maniac" had seven years on the streets at that time, when an undercover narcotics detective with Nassau County police picked him up. After surviving what he describes as the "kill-or-be-killed" gang life, he began a three-and-a-half-year stay behind bars. He awaited trial in the relative comfort of Nassau County Jail surrounded by people from the community, then was convicted and sentenced to hard time in a medium-security upstate prison. Later, he was transferred to the maximum-security Elmira Correctional Facility after he slashed another inmate, a member of a rival gang, in the face and chest.

Once there, he traded up to the Hit Squad Brim set of the Bloods, a larger organization. But with tighter restrictions than before, and because his then-fellow inmates included cold-blooded killers with nothing to lose due to their much-longer sentences, he laid low and spent his time reading until his release earlier this year.

Out three months now, the barrel-chested 23-year-old took the microphone during the recent fifth-annual Roosevelt Community Awareness Day at Centennial Park and denounced the lifestyle that landed him a trip up the river.

"It's not a fun life, it's really not," said Daniels, now an anti-gang advocate with Help End Violence Now (HEVN), as a group of teenagers played in a basketball tournament before him. "You see who's really there for you, who keeps in contact," he said. Among the first things he did when he got out was tattoo his daughter's name, Madison, on his arm.

But Maniac was simply living up to the gang's expectation—that its members wind up dead, hospitalized or imprisoned. As he begins to pull his life back together, Daniels leaves behind a system that presently has ensnared more than 400 gang members—the number currently in the two county jails on Long Island, about 8 percent of the estimated more than 5,000 total gangsters on LI—and an untold number of local gang bangers who have been sentenced to the New York State prison system.

In recent tours of the Nassau County Jail in East Meadow and Suffolk County Jail in Riverhead, the *Press* got an up-close look at how gangs operate from inside.

#### **Strength in Numbers**

When a suspected gang member is arrested, they meet one of five specialized investigators in a holding pen at county jail where they're questioned, photographed and, depending on their answers, entered into a gang database.



Men on a Mission: Melvin Daniels (L.) and Bishop J. Raymond Mackey outside Centennial Park in Roosevelt where they spread their message of peace on the streets through the nonprofit group Help End Violence Now (HEVN).

Whether or not they're awaiting trial or doing a "county bullet" (i.e., one year or less, the standard jail-term for misdemeanors—as opposed to felonies that earn longer sentences in an upstate prison), anyone who authorities believe might run with a gang gets investigated.

Suffolk County Jail officials said there were 238 gang members among the approximately 1,700 inmates as of Sept. 3. About half are 18 or younger and 30 to 40 percent are Bloods, although those estimates are constantly in flux. Nassau has 170 gang members identified in an inmate population of 1,653 as of Sept. 15—but in both jails there are exceptions.

"We have a lot more here than that, but we have to follow certain criteria," says Sgt. Steven Lundquist, commanding officer of the Gang Intelligence Unit, from inside his pale-green office adorned with confiscated gang paraphernalia. "We can't just recklessly label people gang members because it will affect their cases," and may add time on to their sentence, he says.

Knowing this, many suspected gang members lie to investigators about their affiliations and are less likely to have overt gang tattoos. A tactic used to avoid detection is to hide gang tats behind their ears, on the bottom of their feet, between their fingers, under their hair or inside their mouth. Gang-related burn marks and graffiti inside jail cells have also been curbed for those gang bangers trying to stay off the radar.

The best ways for jailhouse investigators to identify a gang member include self-admission, being fingered by a confidential informant, possessing a gang-rule list, or getting arrested with gang members, which at least makes them a suspected gang associate. Investigators can't peg the color of their clothing as a guarantee of gang membership—perhaps they just really like blue, the color identified with the Crips.

And in the case of a confidential informant, investigators have to be especially careful. "The worst thing you can be here is a snitch; so we have to protect people's identities," Lundquist says.

Once gang members are identified, they are spread out in separate housing areas and mixed in with rivals to avoid any one particular gang linking up and taking over a section. But no matter what cell block an inmate calls their new home, incarceration is often a transformative experience—for better or for worse.

Recommend this? [?]

Selected for you by a sponsor:

Anita Baker avoids jail in royalty dispute (USATODAY.com)

You might also like:

Woman, 22, Killed in Old Westbury Crash (Long Island Press)

Westbury Man Arrested for Robbing Taxi Driver | Long Island Press (Long Island Press)

FDNY Captain from Westbury Arrested for Fake Vicodin Prescription | Long Island Press (Long Island Press)

2 Slashed, 4 Arrested in North Massapequa Brawl | Long Island Press (Long Island Press)

(Last updated on September 24, 2009 at 9:50 am) and filed under Featured, Gangs of Long Island, News, Special Series. You can follow any responses to this entry through [RSS 2.0](#). You can leave a response or trackback to this entry


Pages: 1 2 3

Follow Timothy Bolger on Twitter!

[Share](#) / [Save](#) [Facebook](#) [Twitter](#) [LinkedIn](#)

More articles filed under Featured, Gangs of Long Island, News, Special Series

## 2 Responses for "Locked Up"

1.  melvin daniels says:  
February 22, 2010 at 12:24 am

**EXHIBIT D**

**COUNTY OF SUFFOLK**  
**CORRECTIONAL FACILITY**  
**SUBSTITUTE JAIL ORDER (SJO) REQUEST**

**INMATE DATA**

<b>NAME:</b> Hartry, Kyle	<b>PIN#:</b> 340474	<b>DOB:</b> 09/29/76
<b>SPECIAL INFO (MO, PC, ETC):</b> None	<b>CLASS:</b> AMWRIT	<b>LOC:</b> 2WN32

**REASON FOR REQUEST**

**JUSTIFICATION:** Inmate Hartry wrote statement against inmate Allen, Robin #194559. Inmate Hartry will be testifying against inmate Allen and this information become well known thruought the jail. Hartry has been labeled a rat and has received threats. This request was also made by ADA Albertson.

**FACILITY DATA**

<b>SPECIFIC FACILITY REQUESTED?</b>	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
-------------------------------------	------------------------------	--

**IF YES, LIST FACILITY & REASON:**

**REQUESTED BY**

<b>TITLE, NAME &amp; SHIELD#:</b> Sgt Inv Steven Lundquist #S167	<b>BUREAU:</b> Gangs
<b>SIGNATURE:</b> <i>Sgt Inv Steven Lundquist</i> #5167	<b>DATE:</b> 10/25/07

☒ **APPROVED** ☐ **DENIED** BY (WARDEN OR HIS/HER DESIGNEE)

<b>TITLE, NAME &amp; SHIELD #:</b> LT. THOMAS J. HENNESSEY L73	<b>BUREAU:</b> RECORDS
<b>SIGNATURE:</b> <i>LT. Thomas J. Hennessey</i>	<b>DATE:</b> 10/25/07

**RECORD ROOM DATA**

<b>NAME OF SUBSTITUTE JAIL:</b> NASSAU COUNTY	<b>STATE APPROVAL:</b> <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
---	--

**COMMENTS:**

<b>PROCESSED BY:</b> (TITLE, NAME & SHIELD#) <i>Sgt Dennis Fitzgerald</i> 377	<b>DATE:</b> 10-25-07
--	-----------------------

**EXHIBIT E**

SUFFOLK COUNTY SHERIFF'S OFFICE  
SUFFOLK COUNTY CORRECTIONAL FACILITY  
ADMINISTRATIVE SEGREGATION REPORT FORM  
MENTAL HEALTH & SECURITY REFERRAL

DATE OF REPORT: 9/19/07TIME OF REPORT: 1556NAME: Hartley, KylePIN #: 340474HOUSING LOCATION: P3210 4TDOB: 9/29/76CLASSIFICATION: ADMINIT

REASON FOR ADMINISTRATIVE SEGREGATION / MENTAL HEALTH REFERRAL / SECURITY REFERRAL:

Inmate is to be placed in P.C. for his own safety. Inmate wrote a statement on another inmate. A copy of the statement had been passed around the facility, posing a threat to inmate Hartley's safety.

C/O: V. M. [unclear] # 744 SGT. \_\_\_\_\_ # \_\_\_\_\_DUTY LT. H. D. [unclear] # 108

INITIAL ACTION: \_\_\_\_\_

DATE: \_\_\_\_\_ TIME: \_\_\_\_\_

CLASSIFICATION ACTION: \_\_\_\_\_

REFERRAL TO MENTAL HEALTH: INFORMATIONAL ☐ ROUTINE ☐ URGENT ☐CLASSIFICATION OFFICER: \_\_\_\_\_ # \_\_\_\_\_ SUPERVISOR: [signature] # 108

DISTRIBUTION:

COPY #1 WHITE CLASSIFICATION  
#2 YELLOW MENTAL HEALTH  
#3 PINK SECURITY

DATE: 9/20/07APPROVED BY: [signature] # 6

**EXHIBIT F**

2w/s 3

## COUNTY OF SUFFOLK



OFFICE OF THE SHERIFF

Vincent F. DeMarco  
SHERIFF

## SUFFOLK COUNTY CORRECTIONAL FACILITY HOUSING NOTIFICATION

Hartley, Kyle

NAME

340 774

PIN#

9/19/07

DATE

☐ **ADMINISTRATIVE SEGREGATION:** After reviewing your facility records and incarceration profile, it has been determined that by your actions you represent:

☐ An immediate danger to yourself, other inmates and/or facility staff.

☒ An immediate threat to your safety from other inmates.

☐ A clear threat to the safety, security and good order of the facility.

☐ And you will be placed in the Behavioral Management Unit.

☐ **REFUSE PROTECTIVE CUSTODY:** The classification unit has advised me that my safety can best be maintained by placement in protective custody. With full understanding of any risks I may be taking by opting for placement into general population, I am requesting to be moved from and/or not placed into protective custody. Clearly this request is made by me and not the Suffolk County Sheriff's Office or its employees. I further understand that by signing this release, I absolve the sheriff and his employees from any and all liabilities that may occur in general population housing. I also understand that if for any reason I feel threatened I will immediately notify the officer on duty and may request protective custody at any later time during my incarceration.

☒ **REQUEST PROTECTIVE CUSTODY:** I the undersigned inmate in protective custody understands that by signing this release, I absolve the Sheriff and any of his employees from any liabilities when going to any activities, programs or recreation. I also understand that if for any reason I feel threatened, I will not participate in any activities, programs or recreation and I will immediately notify the officer on duty.

☐ **MENTAL OBSERVATION HOUSING**

☐ **GENERAL POPULATION HOUSING**

Kyle Hartley

Inmate's Signature

Off. V. M. Carver 744 9/19/07

Officer's Signature

Shield #



**EXHIBIT G**

1  
2 UNITED STATES DISTRICT COURT  
3 EASTERN DISTRICT OF NEW YORK

4 -----X  
5 KYLE HARTRY,

6 PLAINTIFF,

7 -against-

8 Case No:  
9 3725 CV 08

10 COUNTY OF SUFFOLK, SGT. "JOHN" LUNQUIST,  
11 INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY,  
12 DET. VINCE DALY, INDIVIDUALLY AND IN HIS  
13 OFFICIAL CAPACITY AND C.O. "JOHN DOE" AND  
14 C.O. "JANE DOE" #1-10, INDIVIDUALLY AND IN  
15 THEIR OFFICIAL CAPACITIES (THE NAME JOHN  
16 DOE BEING FICTITIOUS, AS THE TRUE NAMES ARE  
17 PRESENTLY UNKNOWN),

18 DEFENDANTS.

19 -----X  
20 DATE: June 3, 2010

21 TIME: 11:10 a.m.

22 EXAMINATION BEFORE TRIAL of a

23 Witness for the Defendant County of  
24 Suffolk, VICTORIA McCARRICK, taken by both  
25 parties, pursuant to an Order, held at the  
offices of Suffolk County Department of  
Law, 100 Veterans Memorial Highway,  
Hauppauge, New York 11788, before Joanne  
Raimo, a Notary Public of the State of New  
York.

1 McCARRICK

2 an inmate be placed in protective custody?

3 A. You could be Court ordered  
4 there. There is many reasons why he would  
5 be put into protective custody.

6 Q. Did Mr. Hartry --

7 A. There is individual reasons.  
8 I'm sorry.

9 Q. There is individual reasons?

10 A. Each inmate has a reason why he  
11 is there. It may not be the same reason  
12 for all inmates. That's what I'm trying to  
13 say.

14 Q. What was the reason Mr. Hartry  
15 was placed in protective custody?

16 A. From reading this, it says that  
17 he wrote a statement on another inmate and  
18 the statement was passed around the  
19 facility posing a threat to inmate Hartry's  
20 safety.

21 Q. To your knowledge, what type of  
22 statement did Kyle Hartry write?

23 A. I don't have any knowledge of  
24 that. I don't know.

25 Q. How did you learn that this

1 McCARRICK

2 Hartry with Sergeant Lunquist?

3 A. Yes.

4 Q. When did you first discuss Kyle  
5 Hartry with Sergeant Lunquist?

6 A. I would have notified him of  
7 this paper here after this.

8 Q. It would have been your normal  
9 custom and practice to notify Sergeant  
10 Lunquist if you filled out a form such as  
11 the one in front of you?

12 MR. MITCHELL: I object to the  
13 form.

14 But you can answer.

15 A. Can you rephrase that? I'm  
16 really lost here.

17 Q. Sure.

18 A. Say that again.

19 Q. You testified earlier that you  
20 spoke to Sergeant Lunquist after you  
21 prepared this form; is that correct?

22 A. At some point, yes, I would  
23 have spoken to him in a normal practice.

24 Q. What would be the reason why  
25 you would be speaking to Sergeant Lunquist?

1 McCARRICK

2 Q. Did Kyle Hartry ever tell you  
3 that he had been attacked by other inmates  
4 in the jail?

5 A. I don't know if he did or he  
6 didn't.

7 Q. Directing your attention to  
8 Plaintiff's Exhibit 1, you wrote, quote, "a  
9 copy of the statement has been passed  
10 around the facility posing a threat to  
11 inmate Hartry's safety," end quote. Do you  
12 see that?

13 A. Yes, I do.

14 Q. How did you know that a copy of  
15 the statement had been passed around the  
16 facility?

17 A. I don't know.

18 Q. When you wrote that a copy of  
19 the statement had been passed around the  
20 facility, what was the basis of that  
21 statement?

22 A. From reading this form, I would  
23 take that to mean that that was told to me,  
24 but I don't know if that actually happened.  
25 I don't know if it happened or it didn't.

1 McCARRICK

2 Q. Did you speak to anybody else  
3 at Suffolk County Correctional Facility  
4 regarding Kyle Hartry?

5 A. I don't know if I did or I  
6 didn't.

7 Q. Did any other employee at the  
8 Suffolk County Correctional Facility tell  
9 you that a copy of the statement had been  
10 passed around the jail facility?

11 A. I don't know.

12 Q. Is it possible that you  
13 actually saw a copy of the statement that  
14 Kyle Hartry had written?

15 MR. MITCHELL: Objection to the  
16 form.

17 But you can answer.

18 A. I don't know if I did or did  
19 not see anything pertaining to a statement.

20 Q. Directing your attention to the  
21 last part of your entry here it says,  
22 quote, "posing a threat to inmate Hartry's  
23 safety," end quote, do you see that?

24 A. Yes, I do.

25 Q. Did you believe that there was

1 McCARRICK

2 of this form?

3 A. Yes, it is.

4 Q. Is Mr. Hartry's signature there  
5 as well?

6 A. Yes, it is.

7 Q. On this form did you check out  
8 any boxes or put an X in any boxes?

9 A. The inmate would fill out and  
10 check the box. I would put an immediate  
11 threat why and he was requesting protective  
12 custody.

13 Q. Did you fill out any of the  
14 boxes on this form?

15 A. I filled out an immediate  
16 threat to your safety from others. That's  
17 the reason why he was requesting protective  
18 custody or being placed into protective  
19 custody.

20 Q. You filled out the box that  
21 said, quote, "an immediate threat to your  
22 safety from other inmates," end quote?

23 A. Yes.

24 Q. Why did you fill out that box?

25 A. Because that would be the

1 McCARRICK

2 for their own safety?

3 A. Yes. They could or they can't  
4 be. They don't have to be there just for  
5 their own safety. There is multiple  
6 reasons why someone is placed in  
7 administrative setting.

8 Q. Are you familiar with what is  
9 known as an SJO?

10 A. Yes, I am.

11 Q. What is an SJO?

12 A. Substitute jail order.

13 Q. What is that?

14 A. That would be where we would  
15 house an inmate in another facility outside  
16 of our own.

17 Q. Under what circumstances would  
18 an SJO be issued?

19 A. There's individual reasons  
20 again why an SJO would be used.

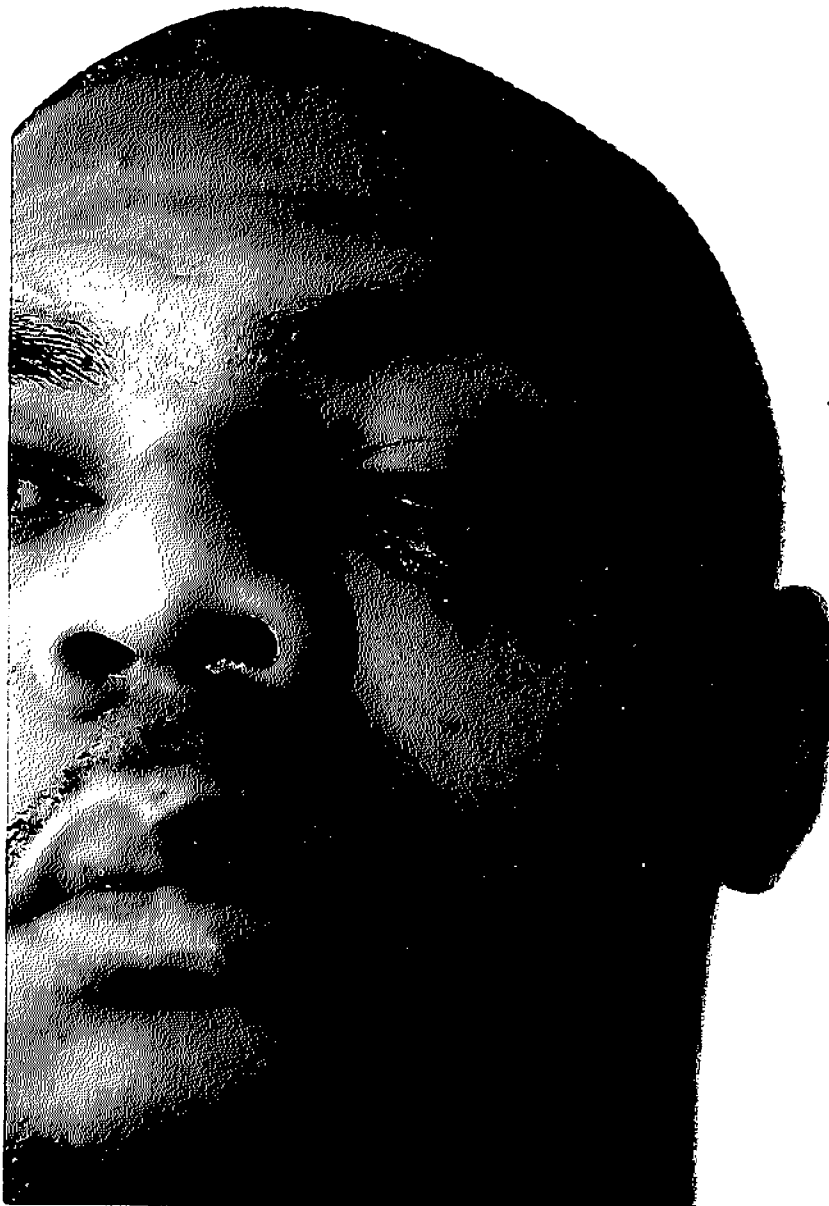
21 Q. Would an SJO be used for the  
22 safety of an inmate?

23 A. It can be, but it doesn't have  
24 to be.

25 Q. Did you consider requesting an

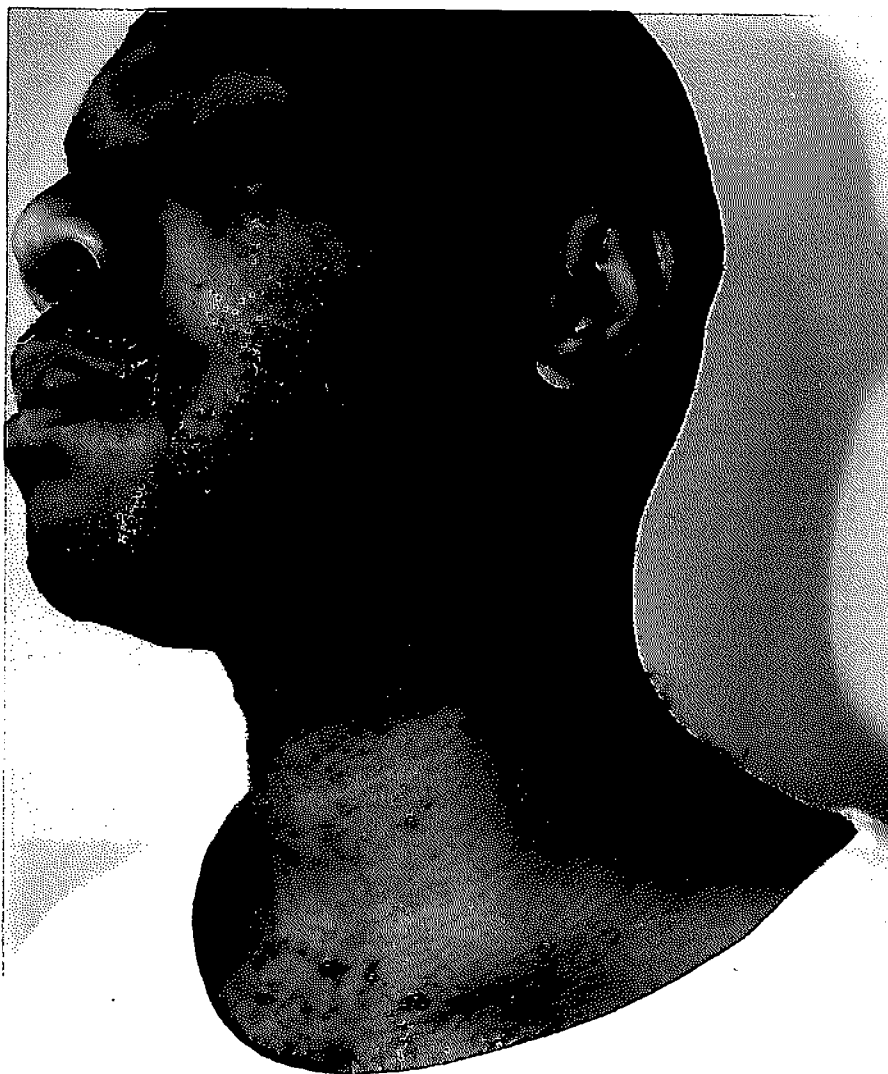


**EXHIBIT H**





---



**EXHIBIT I**

07-05196

## COUNTY OF SUFFOLK



OFFICE OF THE SHERIFF

Vincent DeMarco,  
Sheriff

## INMATE HOSPITAL TRANSPORT FORM

HARTY, Kyle 340474 09-29-76 1E/N 0A-03  
INMATE'S NAME PIN # DATE OF BIRTH HOUSING LOCATION

Chief Complaint 210 Orbital fracture on Left Side.

Robert Peely 798 Sgt. James Duggan 5110  
Correction Officer Shield # Supervisor Shield #

Internal Security Notified: ☒ Y or N Mark Smith 1433 10-24-07  
Investigator Notified Time Date

Transportation TO hospital:

P/S MAJORITY 547 1515 10-24-07  
Means of Transportation Time Date

If the inmate is sent to the hospital from anywhere other than Riverhead - Fax to Riverhead Dury Lt. (23591) after completing the above information

## Disposition to be completed by the Riverhead Dury Lieutenant:

Admitted to Hospital Y or ☒ N \_\_\_\_\_  
Time Date

Transportation FROM hospital:

P/S MAJORITY 547 1850 10-24-07  
Means of Transportation Time Date

Medical Paper Work: ☒ Y or NInmate Screened by Medical prior to re-housing: ☒ Y or N

C.I.B. Notified: Y or N \_\_\_\_\_  
Investigator Notified Time Date

100 CENTER DRIVE  
RIVERHEAD, NEW YORK 11901-3389  
(631) 852-2290

Distribution after completion:  
Original \_\_\_\_\_ Security  
Copy \_\_\_\_\_ Facility Management  
Copy \_\_\_\_\_ Classification  
Copy \_\_\_\_\_ PRAT Commander  
Copy \_\_\_\_\_ Jail Medical Director